

Reed of Bowie	Shofner
Roach of Angelina	Westfall
Russell	Wood of Harrison
Sessions	Youngblood

## Absent

Adkins	Payne
Bradbury	Quinn
Celaya	Roach of Hunt
Howard	Stanfield
Jefferson	Venable
Morrison	Waggoner

## Absent—Excused

Butler of Karnes	Huddleston
Fitzwater	Moore

The Speaker announced that the motion prevailed.

The Speaker then laid before the House, on its second reading and passage to engrossment,

H. B. No. 46, A bill to be entitled "An Act levying and imposing occupation taxes, in addition to those now prescribed by law on certain industries and public utilities; and natural resources, such as gas, sulphur and oil; providing for certain exemptions and defining terms used in the Act; taxes on soft drinks; etc., and declaring an emergency."

The bill was read second time.

Question—Shall House Bill No. 46 pass to engrossment?

## REASON FOR VOTE

Since no vote was taken on Thursday and Friday of last week, I wish to record my name as being present on both days.

HANNA.

## RECESS

On motion of Mr. Roane, the House at 4:50 o'clock p. m., took recess to 9:30 o'clock a. m., tomorrow.

## APPENDIX

## STANDING COMMITTEE REPORTS

The following committees have filed favorable reports on bills as follows:

Revenue and Taxation: House Bills Nos. 9, 36, 20, 46 and 5.

The Committee on Revenue and Taxation filed adverse reports with minority favorable, on bills as follows:

House Bills Nos. 10 and 37.

## REPORT OF THE COMMITTEE ON ENROLLED BILLS

Committee Room,  
Austin, Texas, October 24, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 15, "An Act to amend Article 2785, Revised Civil Statutes of Texas of 1925, so as to provide that notices of election shall be posted for ten (10) days, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

## THIRD DAY

(Continued)

(Friday, October 25, 1935)

The House met at 9:30 o'clock a. m., and was called to order by Speaker Stevenson.

## LEAVE OF ABSENCE GRANTED

(By unanimuos consent)

Mr. Cagle was granted leave of absence for today, on account of illness, on motion of Mr. Fuchs.

## RELATIVE TO SUPPLIES TO BE FURNISHED BY COMMITTEE ON CONTINGENT EXPENSES

Mr. Beck offered the following resolution:

Whereas, The Contingent Expense Committee is desirous of keeping the expenditures within the amount for each member during this Special Session; therefore, be it

Resolved, That the Chairman of the Contingent Expense Committee shall have the power and authority to furnish only such supplies as are absolutely necessary during the session to transact the business of the State.

BECK,  
DUNLAP of Hays,  
HYDER,  
ADAMSON,  
FAIN.

The resolution was read second time.

Mr. McKee raised a point of order on further consideration of the reso-

lution by Mr. Beck, on the ground that the resolution is out of order at this time, as the time allotted for the consideration of resolutions has expired.

The Speaker sustained the point of order.

Mr. Beck moved that the House Rule, relative to the time allotted for the consideration of resolutions, be suspended, at this time, for the purpose of considering the above resolution.

The motion prevailed.

Mr. McKee moved to table the resolution.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table was lost by the following vote:

#### Yeas—13

Bergman	McFarland
Clayton	McKee
Colquitt	McKinney
Hankamer	Olsen
Hodges	Padgett
Jefferson	Pope
McCalla	

#### Nays—100

Adamson	Ford
Adkins	Fox
Aikin	Frazer
Alsup	Fuchs
Ash	Gibson
Beck	Glass
Bourne	Good
Bradbury	Graves
Bradford	Gray
Broyles	Greathouse
Burton	Hanna
Butler of Brazos	Hardin
Caldwell	Harris of Archer
Calvert	Harris of Dallas
Canon	Hartzog
Colson	Herzik
Cooper	Hofheinz
Cowley	Holland
Craddock	Hunt
Crossley	Hunter
Daniel	Hyder
Davis	James
Davison of Fisher	Jones of Atascosa
Dickison	Jones of Falls
Dunlap of Hays	Jones of Shelby
Dunlap of Kleberg	Jones of Wise
Dwyer	Keefe
England	King
Fain	Knetsch
Farmer	Lanning
Fisher	Latham

Lindsey	Russell
Lotief	Rutta
Lucas	Sessions
Luker	Shofner
Mauritz	Smith
McConnell	Spears
Moffett	Tarwater
Morris	Tennyson
Newton	Thornton
Patterson	Tillery
Petsch	Waggoner
Quinn	Walker
Reader	Wells
Reed of Bowie	Westfall
Reed of Dallas	Wood of Harrison
Roach of Angelina	Wood of Montague
Roane	Worley
Roark	Young
Roberts	Youngblood

#### Absent

Alexander	Leonard
Atchison	Morrison
Celaya	Merse
Collins	Nicholson
Davisson	Palmer
of Eastland	Payne
Dunagan	Riddle
Duvall	Roach of Hunt
Head	Rogers
Hill	Scarborough
Hoskins	Settle
Howard	Stanfield
Jackson	Steward
Lange	Stinson
Leath	Stovall
Lemens	Venable

#### Absent—Excused

Butler of Karnes	Huddleston
Cagle	Moore
Fitzwater	

Question then recurring on the resolution, it was adopted.

#### HOUSE BILL NO. 46 ON PASSAGE TO ENGROSSMENT

The Speaker laid before the House, as pending business, on its passage to engrossment,

H. B. No. 46, A bill to be entitled "An Act levying and imposing occupation taxes, in addition to those now prescribed by law on certain industries and public utilities; and natural resources, such as gas, sulphur and oil; providing for certain exemptions and defining terms used in the Act; taxes on soft drinks; ets., and declaring an emergency."

The bill having been read second time on yesterday.

Mr. Aikin offered the following amendment to the bill:

Amend House Bill No. 46, by striking out all of lines 10 to 29 inclusive on page 6.

AIKIN,  
MORRIS.

Mr. Fox raised the following point of order on further consideration of House Bill No. 46:

Mr. Speaker:

"I raise the point of order that House Bill No. 46 is unconstitutional, and invalid, indefinite, incapable of being enforced, incapable of being understood, impossible of performance, vague and would be of no force and effect if enacted into law for the following reasons:

"(1) The bill sets up no machinery whereby the taxes could be collected and merely leaves it to somebody to collect the taxes if anybody wanted to report that they had any taxes to pay. It sets up no standards upon which the taxes could be levied, and each section of said bill within itself fails in every degree to carry out any purpose whatsoever.

"(2) The caption of said bill does not sufficiently indicate what might be contained in said bill and is therefore, in violation of Section 35, of Article III of the State Constitution.

"(3) Section 16 of said bill attempts to levy an occupation tax upon any person having any liquor on hand in this State and to this extent said tax fails to be an occupation tax and is merely an attempt to collect revenue and could not be an occupation tax because nowhere in said section does it attempt to levy a tax upon the occupation of handling liquor. Furthermore, said section does not set up any machinery whereby a tax could be collected and is so indefinite and so vague that it is incapable of being intelligently acted upon by this House. Further, there is a grave question whether or not liquor could be legally sold until the Legislature has set up all the necessary machinery.

"(4) In general the bill as a whole is an attempt to levy occupation taxes without properly taking care of the matter and is merely an attempt to do something without any apparent serious intention to do so."

FOX.

The Speaker overruled the point of order.

Mr. Reed of Bowie moved that further consideration of House Bill No. 46, be postponed until next Friday.

Mr. Knetsch moved to table the motion by Mr. Reed of Bowie.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—101

Adamson	Jackson
Adkins	James
Aikin	Jefferson
Alexander	Jones of Atascosa
Alsup	Jones of Falls
Ash	King
Beck	Knetsch
Bergman	Lanning
Bradbury	Latham
Broyles	Leath
Butler of Brazos	Lindsey
Calvert	Luker
Canon	Mauritz
Celaya	McCalla
Clayton	McConnell
Collins	McFarland
Colquitt	McKee
Colson	McKinney
Cooper	Moffett
Cowley	Morrison
Craddock	Newton
Crossley	Nicholson
Davis	Olsen
Davisson	Padgett
of Eastland	Patterson
Dickison	Petsch
Dunlap of Hays	Pope
Dwyer	Quinn
Fain	Reader
Fisher	Reed of Dallas
Ford	Riddle
Frazer	Roane
Fuchs	Roark
Glass	Roberts
Good	Settle
Graves	Shofner
Gray	Smith
Greathouse	Spears
Hankamer	Steward
Harris of Dallas	Stinson
Harris of Archer	Stovall
Head	Tarwater
Herzik	Tennyson
Hodges	Thornton
Holland	Tillery
Hoskins	Waggoner
Hunt	Walker
Hunter	Wells
Hyder	Westfall

Wood of Montague Young  
Worley Youngblood

### Nays—20

Bourne	Keefe
Burton	Lotief
Daniel	Lucas
Davison of Fisher	Morris
England	Palmer
Farmer	Reed of Bowie
Fox	Roach of Hunt
Hardin	Russell
Jones of Shelby	Rutta
Jones of Wise	Wood of Harrison

### Absent

Atchison	Lange
Bradford	Lemens
Caldwell	Leonard
Dunagan	Morse
Dunlap of Kleberg	Payne
Duvall	Roach of Angelina
Gibson	Rogers
Hanna	Scarborough
Hartzog	Sessions
Hill	Stanfield
Hofheinz	Venable
Howard	

### Absent—Excused

Butler of Karnes	Huddleston
Cagle	Moore
Fitzwater	

Mr. Gray moved that the House consider House Bill No. 46, section by section.

The motion prevailed.

Question recurring on the amendment by Mr. Aikin, it was adopted.

Mr. Patterson offered the following amendment to the bill:

Amend House Bill No. 46, Section 1, page 1, by striking out all of said section after the words "three-fourths thereof" in line 40 and substituting therefor the words "General Revenue Fund."

On motion of Mr. Frazer, the amendment was tabled.

Mr. Beck offered the following amendment to the bill:

Amend House Bill No. 46, Section 1, to hereafter read as follows:

"One-fourth of said taxes when and as received by the Comptroller shall be paid to the State Treasurer of Texas and placed to the credit of the Public School Fund; two-fourths of said taxes when and as received by the Comptroller, shall be paid to the

State Treasurer to be placed to the credit of such fund as the Legislature may create for the payment of the old age pensions and one-fourth of said taxes when and as received by the Comptroller, shall be paid to the State Treasurer to be placed to the credit of the General Revenue Fund."

On motion of Mr. Frazer, the amendment was tabled.

Mr. Quinn offered the following amendment to the bill:

Amend House Bill No. 46, Section 2, by striking out the following:

"Each individual, company, corporation or association owning, operating, managing or controlling any gas, electric light or electric power plant located within any incorporated city in this State of more than two thousand five hundred (2,500) inhabitants and less than ten thousand (10,000) inhabitants."

And insert in lieu thereof the following:

"Each individual, company, corporation or association owning, operating, managing or controlling any gas, electric light or electric power plant located within any village, town or city in this State of less than ten thousand (10,000) inhabitants."

Mr. Shofner offered the following substitute for the amendment by Mr. Quinn:

Substitute for amendment to House Bill No. 46 by striking out all of Section 2, page 2, and substituting in lieu thereof the following:

"Each individual, company, corporation, or association, owning, operating or managing or controlling any gas, electric light, electric power, or water works, or water and light plant, located within any incorporated town or city in this State, and used for local sale and distribution in said town or city, and charging for such gas, electric lights, electric power, or water, shall make quarterly, on the 1st days of January, April, July and October of each year, a report to the Comptroller under oath of the individual or of the president, treasurer, or superintendent of such company, corporation, or association showing the gross amount received from such business done in each such incorporated city or town within this State in the payment

of charges for such gas, electric lights, electric power, or water for the quarter next preceding. Said individual, company, corporation, or association, at the time of making said report for any such incorporated town or city of two thousand five hundred (2,500) inhabitants and less than ten thousand (10,000) inhabitants, according to the last United States Census next preceding the filing of said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date equal to one-fourth ( $\frac{1}{4}$ ) of one per cent (1%) of said gross receipts, as shown by said report; and for any incorporated town or city of ten thousand (10,000) inhabitants or more, according to the last United States Census next preceding the filing of said report, the said individual, company, corporation, or association, at the time of making said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date an amount equal to one-half ( $\frac{1}{2}$ ) of one per cent (1%) of said gross receipts, as shown by said report. Nothing herein shall apply to any such gas, electric light, power, or water works or water and light plant within this State owned and operated by any city or town, nor to any county or water improvement or conservation district. Nothing herein shall be construed to require payment of the tax on gross receipts herein levied more than once on the same commodity, and where the commodity is produced by one individual, company, corporation, or association, and distributed by another, the tax shall be paid by the distributor alone."

SHOFNER,  
TENNYSON,  
HARRIS of Archer.

Mr. Quinn moved to table the substitute amendment by Mr. Shofner.

The motion to table was lost.

Question recurring on the substitute amendment by Mr. Shofner, it was adopted.

Mr. Quinn offered the following amendment to the amendment, as substituted:

Amend amendment to House Bill No. 46, Section 2, by striking out the following:

"Each individual, company, corporation or association owning, operating, managing or controlling any gas,

electric light or electric power plant located within any incorporated city in this State of more than two thousand five hundred (2,500) inhabitants and less than ten thousand (10,000) inhabitants."

And insert in lieu thereof the following:

"Each individual, company, corporation or association owning, operating, managing or controlling any gas, electric light or electric power plant located within any village, town or city in this State of less than ten thousand (10,000) inhabitants."

Mr. McFarland offered the following substitute for the amendment by Mr. Quinn to the amendment:

Amend Shofner amendment to House Bill No. 46, by striking out the words "any incorporated town or city in," and strike out the word "said" after the words "distribution in," and insert the word "any," and by striking out the word "incorporated" wherever it appears before the words "city or town" or "town and city," and striking out the words "two thousand five hundred (2,500) inhabitants and."

The substitute amendment was adopted.

Mr. Frazer moved to table the amendment to the amendment, as substituted.

The motion to table was lost.

Question recurring on the amendment to the amendment, as substituted, it was adopted.

Mr. Quinn offered the following amendment to the amendment by Mr. Shofner:

Amend amendment to House Bill No. 46, Section 2, by striking out the words:

"one-fourth of one per cent."

And insert in lieu thereof the following:

"two per cent."

On motion of Mr. Frazer, the amendment was tabled.

Mr. Lotief offered the following amendment to the amendment by Mr. Shofner:

Amend amendment to House Bill No. 46, by changing the words "one-fourth per cent" to "one per cent."

Mr. Frazer moved to table the amendment by Mr. Lotief.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

## Yeas—68

Adamson	Jones of Atascosa
Atchison	Knetsch
Butler of Brazos	Latham
Canon	Leath
Clayton	Leonard
Collins	Mauritz
Colquitt	McCalla
Colson	McFarland
Cooper	McKee
Cowley	McKinney
Crossley	Morris
Dickison	Morse
Dunagan	Nicholson
Dunlap of Hays	Padgett
Dwyer	Petsch
Fisher	Pope
Frazer	Reader
Fuchs	Reed of Dallas
Gibson	Riddle
Good	Roane
Gray	Roberts
Hankamer	Russell
Hanna	Steward
Harris of Dallas	Stinson
Hartzog	Stovall
Head	Tarwater
Hill	Thornton
Hodges	Venable
Hofheinz	Waggoner
Holland	Walker
Hoskins	Wood of Harrison
Hunter	Wood of Montague
Jackson	Worley
James	Youngblood

## Nays—53

Adkins	Hardin
Aikin	Harris of Archer
Alsup	Hunt
Beck	Jefferson
Bourne	Jones of Falls
Bradbury	Jones of Wise
Broyles	Keefe
Burton	King
Calvert	Lanning
Craddock	Lemens
Daniel	Lindsey
Davis	Lotief
Davison of Fisher	Lucas
Fain	Luker
Farmer	McConnell
Fox	Moffett
Glass	Newton
Graves	Olsen
Greathouse	Patterson

Reed of Bowie	Shofner
Roach of Angelina	Smith
Roach of Hunt	Spears
Roark	Tennyson
Rogers	Tillery
Rutta	Westfall
Sessions	Young
Settle	

## Absent

Alexander	Herzik
Ash	Howard
Bergman	Hyder
Bradford	Jones of Shelby
Caldwell	Lange
Celaya	Morrison
Davisson	Palmer
of Eastland	Payne
Dunlap of Kleberg	Quinn
Duvall	Scarborough
England	Stanfield
Ford	Wells

## Absent—Excused

Butler of Karnes	Huddleston
Cagle	Moore
Fitzwater	

Question—Shall the amendment by Mr. Quinn, as substituted by amendment by Mr. Shofner, be adopted?

## RECESS

On motion of Mr. Dunagan, the House at 12:00 o'clock m., took recess to 2:00 o'clock p. m., today.

## AFTERNOON SESSION

The House met at 2:00 o'clock p. m., and was called to order by the Speaker.

## LEAVES OF ABSENCE GRANTED

(By Unanimous Consent)

Mr. Butler of Karnes was granted leave of absence for yesterday afternoon and today, on account of important business, on motion of Mr. Hoskins.

Mr. Ash was granted leave of absence for this afternoon, on account of important business, on motion of Mr. Hoskins.

## MESSAGE FROM THE SENATE

Austin, Texas, October 25, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House the Senate has passed the following:

S. B. No. 8, "An Act to amend Section 9, Senate Bill No. 19, Acts, First Called Session, Forty-fourth Legislature, and declaring an emergency."

Respectfully,  
BOB BARKER,  
Secretary of the Senate.

# HOUSE BILL NO. 46 ON PASSAGE TO ENGROSSMENT

The House resumed consideration of pending business, same being House Bill No. 46, relative to levying and imposing occupation taxes on certain industries and public utilities.

The bill having heretofore been read second time, with amendment by Mr. Quinn as substituted by amendment by Mr. Shofner, pending.

Question recurring on the amendment by Mr. Quinn as substituted by amendment by Mr. Shofner, it was adopted.

Mr. Lindsey offered the following amendment to the bill:

Amend Section 1, to House Bill No. 46 by adding the following to said section after the word "Treasury" in line 3, page 2.

"This Act shall in no wise repeal, alter or change any law now in effect in this State affecting the subjects treated in this Act, but this Act is cumulative to all laws on the same subject now in effect."

The amendment was adopted.

Mr. Farmer offered the following amendment to the bill:

Amend House Bill No. 46 as follows:

Add to the end of Section 2, page 2, these words:

"There shall be levied and collected from each individual, company, corporation or association, owning, operating, managing, or controlling any electric light or electric power plant, producing light or power for sale at wholesale to distributing systems, a tax of one (1%) per cent of their gross proceeds on such sales within this State, and same shall be paid by such producers quarterly on the first day of January, April, July and October in each year for the quarter preceding the report, which tax shall be paid to the Treasurer of the State of Texas. Said tax shall be paid on reports of the business done for the preceding

quarter, and such reports shall be sworn to by some official of the association, company, or corporation, of the individual."

FARMER,  
BRADBURY,  
ALSUP.

Mr. Leonard raised a point of order on further consideration of the amendment by Mr. Farmer, on the ground that the House has heretofore defeated an amendment containing the same subject matter.

The Speaker overruled the point of order.

Mr. Leonard moved to table the amendment by Mr. Farmer.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table was lost by the following vote:

## Yeas—58

Adamson	Knetsch
Alexander	Latham
Atchison	Lemens
Bergman	Leonard
Butler of Brazos	Luker
Janon	Mauritz
Clayton	McCalla
Collins	McKee
Colquitt	McKinney
Cooper	Morrison
Cowley	Newton
Crossley	Nicholson
Dickison	Payne
Dunagan	Pope
Dunlap of Hays	Reader
Dunlap of Kleberg	Reed of Dallas
Dwyer	Riddle
Frazer	Roane
Gibson	Rogers
Hankamer	Scarborough
Harris of Dallas	Settle
Hartzog	Smith
Hill	Steward
Hodges	Stinson
Hofheinz	Tarwater
Hunter	Thornton
Hyder	Venable
Jackson	Waggoner
James	Young

## Nays—58

Adkins	Craddock
Aikin	Daniel
Alsop	Davis
Beck	Davison of Fisher
Bourne	Davisson
Bradbury	of Eastland
Broyles	England
Burton	Fain

Farmer	Morris
Fisher	Olsen
Fox	Palmer
Fuchs	Patterson
Graves	Quinn
Gray	Reed of Bowie
Hardin	Roach of Angelina
Harris of Archer	Roach of Hunt
Herzik	Roark
Hunt	Rutta
Jefferson	Sessions
Jones of Falls	Shofner
Jones of Shelby	Spears
Jones of Wise	Stovall
Keefe	Tennynson
King	Tillery
Lanning	Walker
Lindsey	Westfall
Lotief	Wood of Harrison
Lucas	Worley
McConnell	Youngblood
McFarland	

## Absent

Bradford	Howard
Caldwell	Jones of Atascosa
Calvert	Lange
Celaya	Leath
Colson	Moffett
Duvall	Morse
Ford	Padgett
Glass	Petsch
Good	Roberts
Greathouse	Russell
Hanna	Stanfield
Head	Wells
Holland	Wood of Montague
Hoskins	

## Absent—Excused

Ash	Fitzwater
Butler of Karnes	Huddleston
Cagle	Moore

Question recurring on the amendment by Mr. Farmer, yeas and nays were demanded.

The amendment was lost by the following vote:

## Yeas—48

Adkins	Farmer
Aikin	Fisher
Alsup	Fox
Bourne	Glass
Bradbury	Gray
Broyles	Greathouse
Burton	Hardin
Davis	Harris of Archer
Davison of Fisher	Jones of Falls
Davison	Jones of Shelby
of Eastland	Jones of Wise
Dickison	Keefe
Fain	Lanning

Lemens	Roark
Lotief	Rutta
Lucas	Smith
McConnell	Spears
McFarland	Tennynson
Morris	Tillery
Palmer	Walker
Patterson	Westfall
Quinn	Wood of Harrison
Reed of Bowie	Worley
Roach of Angelina	Youngblood
Roach of Hunt	

## Nays—75

Adamson	Jones of Atascosa
Alexander	King
Atchison	Knetsch
Beck	Latham
Bergman	Leonard
Bradford	Lindsey
Butler of Brazos	Luker
Calvert	Mauritz
Canon	McCalla
Celaya	McKee
Clayton	Morrison
Collins	Morse
Colquitt	Newton
Cooper	Nicholson
Cowley	Olsen
Crossley	Padgett
Dunagan	Payne
Dunlap of Hays	Petsch
Duvall	Pope
Dwyer	Reader
Frazer	Reed of Dallas
Gibson	Riddle
Good	Roane
Graves	Rogers
Hankamer	Russell
Hanna	Scarborough
Harris of Dallas	Sessions
Hartzog	Settle
Head	Steward
Hill	Stinson
Hodges	Stovall
Hofheinz	Tarwater
Hoskins	Thornton
Hunter	Waggoner
Hyder	Wells
Jackson	Wood of Montague
James	Young
Jefferson	

## Present—Not Voting

Herzik

## Absent

Caldwell	Ford
Colson	Fuchs
Craddock	Holland
Daniel	Howard
Dunlap of Kleberg	Hunt
England	Lange



Leath	Shofner
McKinney	Stanfield
Moffett	Venable
Roberts	

Absent—Excused

Ash	Fitzwater
Butler of Karnes	Huddleston
Cagle	Moore

Mr. Shofner offered the following amendment to the bill:

Amend House Bill No. 46, page 2, by adding the following language at end of Section 2:

"It is the legislative intent that this Section of this Act shall be cumulative of any law now in effect in this State on the same subject."

SHOFNER,  
TENNYSON.

The amendment was adopted.

Mr. Lotief raised a point of order on further consideration of the House Bill No. 46, on the ground that the bill violates Section 36 of Article III of the Constitution.

The Speaker overruled the point of order.

Mr. Bradbury offered the following amendment to the bill:

Amend Shofner amendment, Section 2, page 2, of Shofner amendment, line 6 of said amendment by changing the word "and" to "and/or."

The amendment was adopted.

Mr. Tennyson offered the following amendment to the bill:

Amend House Bill No. 46, by striking out Section 3 and insert the following:

"Section 3. Each individual, company, corporation or association owning, operating, managing or controlling any telephone line or lines or any telephones within this State, and charging for the use of the same, shall make quarterly, on the first days of January, April, July and October of each year, a report to the Comptroller under oath of the individual or of the president, treasurer or superintendent of such company, corporation or association, showing the gross amount received from all business within this State during the preceding quarter in the payment of charges for the use of its line or lines, telephone and telephones, and from the lease or use of any wires or equipment within this State during said quarter. Said in-

dividuals, companies, corporations and associations, at the time of making said report, shall pay to the State Treasurer an occupation tax, for the quarter beginning on said date, equal to one-half of one per cent of said gross receipts, as shown by said report. It is the legislative intent that this Section of this Act shall be cumulative of any law now in effect in this State on the same subject."

TENNYSON,  
SHOFNER,  
HARRIS of Archer,  
JONES of Wise,  
CANON,  
SESSIONS,  
LINDSEY.

The amendment was adopted.

Mr. Quinn offered the following amendment to the bill:

Amend House Bill No. 46, by adding at the end of Section 3 the following:

"On all report charges on long distance calls within this State in excess of twenty-five (25c) cents per call the telephone company shall pay to the State Treasurer an additional tax of twenty-five (25c) cents on each and every call, and said telephone company at the time of remitting the tax shall furnish the State Comptroller a sworn statement showing the total number of report charges on long distance calls and the amount of each."

Mr. Butler of Brazos raised a point of order on further consideration of the amendment by Mr. Quinn, on the ground that the amendment is not germane to the bill.

The Speaker overruled the point of order.

On motion of Mr. Frazer, the amendment was tabled.

Mr. Farmer raised the following point of order on further consideration of House Bill No. 46:

Mr. Speaker, "I raise the point of order that but one occupation tax can be levied constitutionally on an occupation. This bill levies an additional occupation tax on several occupations, and is therefore unconstitutional."

FARMER.

The Speaker overruled the point of order.

Mr. Lotief offered the following amendment to the bill:

Amend House Bill No. 46, page 4, line 2, by striking out the words "one-half of one per cent" and inserting the words "one per cent."

Mr. James moved to table the amendment by Mr. Lotief.

The motion to table was lost.

Question recurring on the amendment by Mr. Lotief, it was adopted.

Mr. Lotief moved to reconsider the vote by which the amendment was adopted, and to table the motion to reconsider.

The motion to table prevailed.

Mr. Quinn offered the following amendment to the bill:

Amend House Bill No. 46, page 4, by adding a new section at the end of Section 4 to be known as:

"Section 4a." as follows:

"Section 4a. Each individual, company, corporation or association owning, operating, distributing, managing or controlling the sale or manufacture in this State of carbon black shall pay to the State Treasurer two (2%) per cent from the gross amount of each sale within this State."

Mr. Lanning moved to table the amendment by Mr. Quinn.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

#### Yeas—79

Adamson	Dunagan
Adkins	Dunlap of Hays
Aikin	England
Alexander	Fisher
Atchison	Frazer
Bergman	Fuchs
Bourne	Gibson
Bradford	Good
Butler of Brazos	Hankamer
Butler of Karnes	Hanna
Caldwell	Harris of Archer
Calvert	Harris of Dallas
Canon	Hill
Celaya	Hodges
Clayton	Hoskins
Collins	Hunt
Colquitt	Hyder
Colson	Jackson
Cooper	James
Cowley	Jefferson
Davison of Fisher	Jones of Atascosa
Davisson	Knetsch
of Eastland	Lanning
Dickison	Latham

Leath  
Lemens  
Leonard  
Lindsey  
Lotief  
Mauritz  
McConnell  
McKee  
Moffett  
Morris  
Newton  
Nicholson  
Padgett  
Petsch  
Pope  
Reed of Dallas

Roane  
Rogers  
Sessions  
Settle  
Spears  
Stovall  
Tarwater  
Tennyson  
Thornton  
Venable  
Waggoner  
Walker  
Wells  
Wood of Harrison  
Worley  
Young

#### Nays—47

Alsup  
Beck  
Bradbury  
Broyles  
Burton  
Craddock  
Crossley  
Daniel  
Duvall  
Fain  
Farmer  
Fox  
Glass  
Gray  
Hardin  
Hartzog  
Herzik  
Hofheinz  
Holland  
Hunter  
Jones of Falls  
Jones of Shelby  
Jones of Wise  
Keefe

Lucas  
Luker  
McCalla  
McFarland  
Morrison  
Olsen  
Palmer  
Patterson  
Payne  
Quinn  
Reed of Bowie  
Riddle  
Roach of Angelina  
Roach of Hunt  
Roark  
Russell  
Rutta  
Shofner  
Smith  
Tillery  
Westfall  
Wood of Montague  
Youngblood

#### Absent

Davis	Lange
Dunlap of Kleberg	McKinney
Dwyer	Morse
Ford	Reader
Graves	Roberts
Greathouse	Scarborough
Head	Stanfield
Howard	Steward
King	Stinson

#### Absent—Excused

Ash	Huddleston
Cagle	Moore
Fitzwater	

Mr. Farmer offered the following amendment to the bill:

Amend House Bill No. 46 as follows:

Add a new section to be numbered 4a, on page 4, to read as follows:

"On every individual, company, association, or corporation owning, operating, managing or controlling a radio commercial broadcasting station in this State there shall be levied and collected an occupation tax annually equal to 1% of their gross income from all intrastate business which shall be paid quarterly to the Treasurer of the State."

The amendment was adopted.

Mr. Farmer moved to reconsider the vote by which the amendment was adopted, and to table the motion to reconsider.

The motion to table prevailed.

Mr. Harris of Dallas offered the following amendment to the bill:

Amend House Bill No. 46, page 4, Section 5, by striking out on line 14, after the words "room rent," the following:

"and revenues derived from the operation of cafes, restaurants or coffee shops in connection therewith, and all other revenues derived from the business of operating such hotel or hotels except revenue derived from the sale of cigarettes, or for the lease or use thereof in the State during said quarter."

HARRIS of Dallas,  
THORNTON.

The amendment was adopted.

Mr. Harris of Dallas offered the following amendment to the bill:

Amend House Bill No. 46, page 4, Section 5, line 22, by striking out after the words "tax of," the words "two per cent," and inserting in lieu thereof the words "one per cent."

Mr. Thornton offered the following substitute for the amendment by Mr. Harris of Dallas:

Substitute for amendment to House Bill No. 46, by striking out in line 22, page 4, the words "two per cent" and substitute the words "one-half per cent."

On motion of Mr. Frazer, the substitute amendment by Mr. Thornton, was tabled.

Mr. Frazer moved to table the amendment by Mr. Harris of Dallas.

Question recurring on the motion to table, yeas and nays were demanded.

The motion was lost by the following vote:

#### Yeas—64

Adkins	Jones of Wise
Alsup	Keefe
Bergman	Lemens
Bourne	Lindsey
Bradbury	Lotief
Broyles	Lucas
Canon	Luker
Cowley	Mauritz
Craddock	Moffett
Crossley	Morris
Daniel	Newton
Davisson	Nicholson
of Eastland	Padgett
Dunlap of Hays	Palmer
England	Patterson
Fain	Petsch
Farmer	Pope
Fisher	Reed of Bowie
Fox	Riddle
Frazer	Roach of Angelina
Fuchs	Roach of Hunt
Glass	Roark
Hardin	Rutta
Harris of Archer	Scarborough
Head	Sessions
Herzik	Shofner
Hodges	Stovall
Hofheinz	Tarwater
Hoskins	Venable
Hunter	Westfall
James	Wood of Harrison
Jones of Falls	Wood of Montague
Jones of Shelby	

#### Nays—66

Adamson	Harris of Dallas
Aikin	Hartzog
Alexander	Hill
Atchison	Holland
Beck	Hyder
Bradford	Jackson
Burton	Jefferson
Butler of Karnes	Jones of Atascosa
Caldwell	King
Calvert	Knetsch
Celaya	Lanning
Clayton	Latham
Collins	Leath
Colquitt	Leonard
Colson	McCalla
Cooper	McConnell
Davis	McFarland
Davison of Fisher	McKee
Dickison	McKinney
Dunagan	Morrison
Dunlap of Kleberg	Morse
Gibson	Olsen
Good	Payne
Gray	Quinn
Hankamer	Reader
Hanna	Reed of Dallas

Roane	Thornton
Russell	Waggoner
Settle	Walker
Smith	Wells
Spears	Worley
Stinson	Yeung
Tennyson	Youngblood

## Absent

Butler of Brazos	Hunt
Duvall	Lange
Dwyer	Roberts
Ford	Rogers
Graves	Stanfield
Greathouse	Steward
Howard	Tillery

## Absent—Excused

Ash	Huddleston
Cagle	Moore
Fitzwater	

Question recurring on the amendment by Mr. Harris of Dallas, yeas and nays were demanded.

The amendment was adopted by the following vote:

## Yeas—75

Adamson	Holland
Aikin	Hyder
Alexander	Jackson
Atchison	Jefferson
Bradford	Jones of Atascosa
Burton	Keefe
Caldwell	King
Calvert	Knetsch
Clayton	Lanning
Collins	Latham
Colquitt	Leath
Colson	Leonard
Cooper	McCalla
Crossley	McConnell
Davison of Fisher	McFarland
Dickison	McKee
Dunagan	McKinney
Dunlap of Kleberg	Morrison
Duvall	Morse
England	Padgett
Fisher	Patterson
Gibson	Pope
Good	Quinn
Gray	Reader
Hankamer	Reed of Dallas
Hanna	Riddle
Harris of Archer	Russell
Harris of Dallas	Rutta
Hartzog	Scarborough
Herzik	Settle
Hill	Shofner
Hodges	Smith
Hofheinz	Stanfield

Stinson	Westfall
Tennyson	Worley
Thornton	Young
Waggoner	Youngblood
Wells	

## Nays—56

Adkins	Jones of Falls
Alsup	Jones of Shelby
Beck	Jones of Wise
Bergman	Lindsey
Bourne	Lotief
Bradbury	Lucas
Broyles	Luker
Butler of Karnes	Mauritz
Canon	Moffett
Celaya	Morris
Cowley	Newton
Craddock	Nicholson
Daniel	Olsen
Davisson	Palmer
of Eastland	Petsch
Dunlap of Hays	Reed of Bowie
Fain	Roach of Angelina
Farmer	Roach of Hunt
Fox	Roark
Frazer	Rogers
Fuchs	Sessions
Glass	Stovall
Greathouse	Tarwater
Hardin	Tillery
Head	Venable
Hoskins	Walker
Hunt	Wood of Harrison
Hunter	Wood of Montague
James	

## Present—Not Voting

Davis

## Absent

Butler of Brazos	Lemens
Dwyer	Payne
Ford	Roane
Graves	Roberts
Howard	Spears
Lange	Steward

## Absent—Excused

Ash	Huddleston
Cagle	Moore
Fitzwater	

Mr. Harris of Dallas moved to reconsider the vote by which the amendment was adopted, and to table the motion to reconsider.

The motion to table prevailed.

Mr. Roach of Hunt moved that the House recess to 9:30 o'clock a. m., tomorrow.

Mr. Jefferson moved that the House adjourn until 10:00 o'clock a. m., Monday, October 28.

Question recurring on the motion by Mr. Jefferson, yeas and nays were demanded.

The motion was lost by the following vote:

## Yeas—27

Caldwell	Jefferson
Collins	Lotief
Colson	Morris
Cooper	Morse
Cowley	Olsen
Crossley	Padgett
Dickison	Patterson
Dunagan	Reader
Duvall	Roach of Angelina
England	Scarborough
Hankamer	Settle
Hill	Spears
Hoskins	Young
Hyder	

## Nays—103

Adamson	Hartzog
Adkins	Head
Aikin	Herzik
Alexander	Hodges
Alsup	Hofheinz
Atchison	Hunter
Beck	Jackson
Bergman	James
Bourne	Jones of Atascosa
Bradbury	Jones of Falls
Bradford	Jones of Shelby
Broyles	Jones of Wise
Burton	Keefe
Butler of Brazos	King
Butler of Karnes	Knetsch
Calvert	Lanning
Canon	Latham
Clayton	Leath
Colquitt	Leonard
Craddock	Lindsey
Daniel	Lucas
Davison of Fisher	Luker
Davisson	Mauritz
of Eastland	McCalla
Dunlap of Hays	McConnell
Dunlap of Kleberg	McFarland
Fain	McKee
Farmer	McKinney
Fisher	Moffett
Fox	Morrison
Fuchs	Newton
Gibson	Nicholson
Glass	Palmer
Good	Petsch
Gray	Pope
Greathouse	Quinn
Hanna	Reed of Bowie
Hardin	Reed of Dallas
Harris of Archer	Riddle
Harris of Dallas	Roach of Hunt

Roane	Tennyson
Roark	Thornton
Rogers	Tillery
Russell	Venable
Rutta	Waggoner
Sessions	Walker
Shofner	Wells
Smith	Westfall
Stanfield	Wood of Harrison
Stinson	Wood of Montague
Stovall	Worley
Tarwater	Youngblood

## Absent

Celaya	Howard
Davis	Hunt
Dwyer	Lange
Ford	Lemens
Frazer	Payne
Graves	Roberts
Holland	Steward

## Absent—Excused

Ash	Huddleston
Cagle	Moore
Fitzwater	

Mr. Hofheinz moved that the House adjourn until 9:30 o'clock a. m., Monday, October 28.

Mr. Pope raised a point of order on further consideration of the motion by Mr. Hofheinz, on the ground that the House has not transacted any business since a vote on a motion to adjourn, was defeated.

The Speaker sustained the point of order.

Mr. Hartzog offered the following amendment to the House Bill No. 46:

Amend House Bill No. 46, page 4, by inserting on page 4, line 6, of Section 5, between the words "hotels" and "in" the following:

"located in counties containing more than 21,000 inhabitants as shown by the last preceding Federal Census."

Mr. Frazer moved to table the amendment by Mr. Hartzog.

Question—Shall the motion to table prevail?

## HOUSE BILLS ON FIRST READING

The following House bills, introduced today, (by unanimous consent) were laid before the House, read severally first time, and referred to the appropriate committees, as follows:

By Mr. McCalla, Mr. Duvall, Mr. Spears, Mr. Dickison, Mr. Morse, Mr. Hofheinz and Mr. Holland:

H. B. No. 60, A bill to be entitled "An Act relating to the compensation of district, certain designated county and precinct officers in counties having a population in excess of one hundred and ninety (190,000) thousand inhabitants, according to the last preceding Federal Census; and providing the method and means by which such officers shall be compensated for their services; etc., and declaring an emergency."

Referred to the Committee on Counties.

By Mr. Hill:

H. B. No. 61, A bill to be entitled "An Act fixing the maximum amount of fees officers can receive and retain under the provisions of the Maximum Fee Bill in counties having a population of not less than twenty-three thousand (23,000) nor more than twenty-three thousand seventy-five (23,075) according to the last preceding Federal Census and which has a tax valuation exceeding Twenty-Five Million Dollars, according to the last approved tax rolls of the county, and declaring an emergency."

Referred to the Committee on Counties.

By Mr. Padgett, Mr. McKinney, Mr. Ford, Mr. Thornton, Mr. Butler of Brazos, Mr. Lange, Mr. Duvall, Mr. McFarland, Mr. Dunagan, Mr. Knetsch, Mr. Clayton and Mr. Morse:

H. B. No. 62, A bill to be entitled "An Act to amend Article 5139 of the Revised Civil Statutes of Texas of 1925, providing for constituting the District Judges, Judges of the Criminal District Courts, and county judges of certain counties, juvenile boards for such counties; etc., and declaring an emergency."

Referred to the Committee on Counties.

By Mr. Padgett:

H. B. No. 63, A bill to be entitled "An Act to amend Article 1645 of the Revised Civil Statutes of Texas of 1925, as amended by Chapter 15, Acts of the Forty-second Legislature, Second Called Session, providing for the appointment of county auditors in certain counties of Texas and providing for their salaries and the method of payment of same; providing that if any part of this Act is held to be unconstitutional or invalid, the same

shall not affect the remaining portion of this Act; repealing all laws in conflict herewith, and declaring an emergency."

Referred to the Committee on Counties.

By Mr. Russell and Mr. Butler of Brazos:

H. B. No. 64, A bill to be entitled "An Act levying a tax of five per cent of the total sum or amount of each mortgage or other evidence of indebtedness held by any person, firm, company, partnership or corporation engaged in the business of loaning money on automobiles, including all brokers and finance companies; and designating the holders of such evidence of indebtedness as automobile loan brokers for the purposes of this Act; providing for the method of payment of said tax; providing for penalties and interest in the event of delinquency; providing for the collection hereof by the various county clerks together with the Comptroller and Attorney General; fixing the fund said tax is to be placed in; and declaring an emergency."

Referred to the Committee on Revenue and Taxation.

By Mr. Fain:

H. B. No. 65, A bill to be entitled "An Act amending Section 2 and Section 5 of Chapter 6, House Bill No. 32, Acts of the Third Called Session of the Forty-third Legislature; increasing the tax on oleomargarines and providing that the proceeds from such tax shall go into the Old Age Assistance Fund of the State of Texas, and declaring an emergency."

Referred to the Committee on Revenue and Taxation.

#### SENATE BILL ON FIRST READING

The following Senate bill, received from the Senate today, was laid before the House, read first time and referred to the appropriate committee as follows:

S. B. No. 8, to the Committee on Appropriations.

#### REASON FOR VOTE

I raised a point of order on the constitutionality and validity of House Bill No. 46, for the reason that I desired to raise some money for the

payment of the old age pension and the bill as presented did not appear to me to be worth the paper it was written on and therefore its results would have been nil. For the same reason I voted each time to postpone its consideration in order that other revenue bills could be taken up. In order to carry out the wishes of the people in the payment of the old age pension it will be absolutely necessary for somebody to pay the bill and we should pass a bill that would do the job. I did not think that House Bill No. 46 as presented to the House was worth the time of the House as practically every portion of it would have to be re-written and such practice is slow, expensive, and the result is poor.

FOX of Williamson.

### ADJOURNMENT

Mr. Pope moved that the House recess to 9:30 o'clock a. m., tomorrow.

Mr. Roach of Angelina moved that the House adjourn until 9:30 o'clock a. m., Monday, October 28.

Mr. Lucas moved that the House adjourn until 9:30 o'clock a. m., Saturday, October 26.

Question recurring on the motion by Mr. Lucas, yeas and nays were demanded.

The motion prevailed by the following vote:

#### Yeas—91

Adamson	Gibson
Aikin	Glass
Alexander	Good
Alsup	Hankamer
Atchison	Hanna
Bergman	Hardin
Bourne	Harris of Dallas
Bradbury	Hartzog
Bradford	Head
Burton	Herzik
Butler of Karnes	Hodges
Caldwell	Hofheinz
Canon	Holland
Clayton	Hunter
Collins	Hyder
Colson	Jackson
Craddock	James
Crossley	Jones of Atascosa
Daniel	Jones of Shelby
Davison of Fisher	Jones of Wise
Dunlap of Hays	King
Farmer	Knetsch
Fisher	Lanning
Fox	Leath
Fuchs	Leonard

Lindsey  
Lucas  
Luker  
Mauritz  
McCalla  
McConnell  
McKinney  
Moffett  
Morrison  
Newton  
Olsen  
Padgett  
Palmer  
Patterson  
Petsch  
Pope  
Quinn  
Reed of Bowie  
Reed of Dallas  
Roane  
Roark

Rogers  
Sessions  
Shofner  
Smith  
Stanfield  
Stinson  
Stovall  
Tarwater  
Tennyson  
Thornton  
Tillery  
Venable  
Waggoner  
Walker  
Wells  
Westfall  
Wood of Harrison  
Wood of Montague  
Worley  
Youngblood

#### Nays—32

Adkins	Jefferson
Beck	Jones of Falls
Broyles	Keefe
Calvert	Latham
Colquitt	Lotief
Cooper	Morris
Cowley	Morse
Davisson	Nicholson
of Eastland	Reader
Dickison	Roach of Angelina
Dunlap of Kleberg	Roach of Hunt
Duvall	Russell
Fain	Rutta
Frazer	Settle
Gray	Spears
Harris of Archer	Young
Hill	

#### Absent

Butler of Brazos	Hunt
Celaya	Lange
Davis	Lemens
Dunagan	McFarland
Dwyer	McKee
England	Payne
Ford	Riddle
Graves	Roberts
Greathouse	Scarborough
Hoskins	Steward
Howard	

#### Absent—Excused

Ash	Huddleston
Cagle	Moore
Fitzwater	

The House, accordingly, at 5:25 o'clock p. m., adjourned until 9:30 o'clock a. m., Saturday, October 26.

## APPENDIX

## STANDING COMMITTEE REPORT

The Committee on Privileges, Suffrage and Elections filed a favorable report on House Bill No. 54.

## REPORTS OF THE COMMITTEE ON ENGROSSED BILLS

Committee Room,  
Austin, Texas, October 24, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills to whom was referred

H. B. No. 57, A bill to be entitled "An Act fixing the compensation of District Attorneys in Judicial Districts composed of two or more counties; providing that this Act shall not deprive such District Attorneys of their expense allowance; providing for the disposition of fees; commissions and perquisites earned and collected by such District Attorneys; etc., and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

HODGES, Chairman.

Committee Room,  
Austin, Texas, October 24, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills to whom was referred

H. B. No. 26, A bill to be entitled "An Act creating a System of Old Age Assistance in Texas; placing restrictions on the granting of such assistance; creating the Texas Old Age Assistance Commission; etc., and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

HODGES, Chairman.

Committee Room,  
Austin, Texas, October 24, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills to whom was referred

H. C. R. No. 1, Proposing an amendment to Rule 20 of the House Rules.

Has carefully compared same and finds it correctly engrossed.

HODGES, Chairman.

## FOURTH DAY

(Saturday, October 26, 1935)

The House met at 9:30 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Stevenson.

The roll was called, and the following Members were present:

Adamson	Herzik
Aikin	Hodges
Alexander	Hofheinz
Alsup	Holland
Ash	Hoskins
Atchison	Howard
Beck	Hunt
Bergman	Hunter
Bourne	Jackson
Bradbury	James
Bradford	Jefferson
Broyles	Jones of Atascosa
Burton	Jones of Falls
Butler of Brazos	Jones of Shelby
Butler of Karnes	Jones of Wise
Caldwell	Keefe
Calvert	King
Canon	Knetsch
Celaya	Lanning
Clayton	Latham
Collins	Leath
Colquitt	Leonard
Cooper	Lindsey
Cowley	Lucas
Craddock	Luker
Crossley	McCalla
Daniel	McConnell
Davis	McFarland
Davison of Fisher	McKee
Davisson	McKinney
of Eastland	Moffett
Dunagan	Morris
Dunlap of Hays	Morrison
Duvall	Morse
Dwyer	Newton
Fain	Nicholson
Farmer	Padgett
Fisher	Palmer
Fox	Patterson
Frazer	Payne
Fuchs	Petsch
Gibson	Pope
Glass	Quinn
Good	Reed of Bowie
Graves	Reed of Dallas
Gray	Riddle
Greathouse	Roach of Angelina
Hankamer	Roach of Hunt
Hanna	Roane
Hardin	Roark
Harris of Archer	Rogers
Harris of Dallas	Russell
Hartzog	Sessions
Head	Settle